IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

Crl.MC.No. 2018 of 2007()

CRIME NO.80/2004 OF KUTTAMPUZHA POLICE STATION

PETITIONER:

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1. BOSE POULOSE, AGED 42 YEARS,
   S/O.POULOSE,PALAKKATTU HOUSE,
   BOOTHATHANKETTY,KOTHAMANGALAM.

2. ANANTHAN, AGED 36 YEARS,
   S/O.NARAYANAN,AMBATTUPARAMBIL,
   ANAKAYAM,KUTTAMPUZHA,KOTHAMANGALAM.

BY ADV. SRI.PEEYUS A.KOTTAM

RESPONDENTS: COMPLAINANT & STATE

STATE OF KERALA REP.BY THE
SUB INSPECTOR OF POLICE,
KUTTAMPUZHA POLICE STATION,REP BY THE
PUBLIC PROSECUTOR,HIGH COURT OF KERALA,ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 26/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 2018 of 2007

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Dated this the 26th day of June, 2007

O R D E R

The petitioners face indictment in a prosecution under Section 55 of the Kerala Abkari Act. Investigation is complete. Final report has been filed. Petitioners have received summons to appear before the learned Magistrate. They are willing to surrender before the learned Magistrate. But in as much as the offence is one triable exclusively by a Court of Sessions, the petitioners apprehend that their applications for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that the learned Magistrate may be directed to consider the dictum in **Sukumari** v. **State of Kerala** (2001 (1) KLT 22).

3. It is certainly for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which they could not appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the applications for bail to be filed by the petitioners when they surrender before the learned Magistrate, on

merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself. I direct that the learned Magistrate must consider the play of dictum in **Sukumari** (supra) specifically.

(R. BASANT)
Judge

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